

February 19, 2003

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E02G0116**

**SCOTT SAMPSON**  
Code Enforcement Appeal

Location: 46002 – 212<sup>th</sup> Avenue Southeast

Appellant: **Scott Sampson**  
46002 – 212<sup>th</sup> Avenue Southeast  
Enumclaw, WA 98022-9507  
Telephone: (360) 825-328

King County: Department of Development and Environmental  
Services  
Site Development Services, *represented by*  
**Robert Manns**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7229  
Facsimile: (206) 296-7055

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Deny the appeal
Department's Final Recommendation:	Deny the appeal
Examiner's Decision:	Deny the appeal

**EXAMINER PROCEEDINGS:**

Hearing Opened:	February 18, 2003
Hearing Closed:	February
18, 2003	

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. On December 9, 2002, King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to Scott Sampson at 46002 – 212<sup>th</sup> Avenue Southeast, Enumclaw. The property was cited for clearing within landslide and erosion hazard sensitive areas and for failure to provide required erosion and sedimentation control measures. The Sampson property is a 20 acre parcel located in the Agricultural zone, the northern two thirds of which is flat pasture land with the wooded southern third dropping steeply to the White River. Mr. Sampson filed a timely appeal of the notice and order.
2. The wooded southern one third of the Sampson property is characterized by steep slopes and mapped landslide and erosion hazard areas. In addition, the steep slope and landslide hazards are identified within a notice on title that was recorded with respect to the property in 1998 by the prior owner. As described by geologist Todd Hurley, the steep slope and landslide hazard areas overlap and begin at the slope break along the southern edge of the pasture. In addition, a 50 foot regulatory buffer extends northward from the edge of the slope into the pasture. Vegetation removal on steep slopes and landslide hazards is restricted by the King County Code because a healthy vegetative cover with a strong root system anchors the soils and retards further slope failure.
3. The record clearly demonstrates that tree harvesting occurred without required county permits on the regulated slopes of the Appellant's property south of the pasture area. Site Development Specialist, Robert Manns' staff report enumerates 23 freshly cut tree stumps in the upper portion of the steep slope consisting of fir, cedar, maple and alder. Mr. Sampson concedes that he cut these trees for firewood, but believed that this limited level of cutting was exempt from regulation. Mr. Manns' testimony as to the location of the stumps in the regulated area below the top of the slope is supported by his photographs taken on April 18, 2002.
4. While Mr. Sampson will need to obtain a clearing and grading permit and implement a restoration plan to replant the cut slopes, the process may not be quite as onerous as described in the staff report. First, there is no evidence that Mr. Sampson removed or seriously disturbed the understory surrounding the harvested trees, so the need for erosion and sedimentation control is really limited to the necessity for removing the slash placed on the wooded slopes. Second, the harvest of less than 5,000 board feet of timber is defined in WAC 222-16-050(3) as a class 1 forest practice exempt from DNR permitting requirements. Therefore, a State forest practice permit is not required as a corrective measure, even though a county permit is mandated for vegetation removal within a regulated sensitive area.

CONCLUSIONS:

1. The evidence of record demonstrates that the Appellant violated County sensitive areas regulations by harvesting trees within a regulated landslide hazard area.

DECISION: The appeal is DENIED.

ORDER:

1. No penalties shall be assessed against the Appellant's property if he submits a complete application for a clearing and grading permit, including a sensitive areas restoration plan, within 45 days of the date of this decision.
2. Erosion and sedimentation control measures for the Appellant's clearing and grading permit only require the removal of slash from the regulated steep slope.
3. As a class 1 forest practice, no forest practice permit is required from the State Department of Natural Resources.

ORDERED this 19th day of February, 2003

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 19th day of February, 2003, to the parties and interested persons of record:

Scott Sampson  
46002 - 212th Ave. SE  
Enumclaw WA 98022-9507

Elizabeth Deraitus  
DDES/BSD  
Code Enforcement Supervisor  
MS OAK-DE-0100

Todd Hurley  
DDES/LUSD  
Site Development Services  
MS OAK-DE-0100

Patricia Malone  
DDES  
Code Enforcement Section  
MS OAK-DE-0100

Robert Manns  
DDES  
MS OAK-DE-0100

Randy Sandin  
DDES/LUSD  
Site Development Services  
MS OAK-DE-0100

Heather Staines  
DDES/BSD  
Code Enforcement-Finance  
MS OAK-DE-0100

### **NOTICE OF RIGHT TO APPEAL**

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

### **MINUTES OF THE FEBRUARY 18, 2003 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E02G0116**

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Robert Manns and Todd Hurley, representing the Department; and Scott Sampson, the Appellant.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES report to the Hearing Examiner dated February 18, 2003
Exhibit No. 2	April 3, 2002, letter from Officer Ballweber to Scott Sampson
Exhibit No. 3	April 10, 2002, email from THE3SRANCH (Scott Sampson) to Robert Manns
Exhibit No. 4A	Photos (4) dated 4/18/02
Exhibit No. 4B	Photos (3) dated 4/18/02

Exhibit No. 4C	Photos (2) dated 4/18/02
Exhibit No. 5	May 28, 2002, letter from Robert Manns to Scott Sampson
Exhibit No. 6	August 12, 2002, email from R. Manns to S. Sampson
Exhibit No. 7	August 13, 2002 email from R. Manns to S. Sampson
Exhibit No. 8	August 14, 2002 email from S. Sampson to R. Manns
Exhibit No. 9	August 22, 2002, letter from R. Manns to S. Sampson
Exhibit No. 10	December 9, 2002, letter from R. Manns to S. Sampson, notice and order attached
Exhibit No. 11	December 16, 2002, notice and statement of appeal
Exhibit No. 12	January 10, 2003, notice of hearing
Exhibit No. 13	Aerial map of subject property
Exhibit No. 14	Aerial map showing sensitive areas
Exhibit No. 15	Contour map overlaid on aerial photo
Exhibit No. 16	Assessor's parcel map
Exhibit No. 17	Parcel activity sheet from DDES GIS – Permits on Selected Parcels
Exhibit No. 17A	Parcel activity sheet from DDES GIS – A/P/D's for Parcel; 282006-9020
Exhibit No. 18	Assessor's parcel information and GIS data sheet
Exhibit No. 18A	Assessor's parcel information and GIS data sheet
Exhibit No. 19	March 22, 2003, email from Jeri Breazeal to F. White and J. Ballweber
Exhibit No. 20	Comments for E02G0116 printed 01-27-2003
Exhibit No. 21	June 3, 2002, letter from D. Olegba to S. Sampson re: violations
Exhibit No. 22	Notice on title of sensitive areas for subject parcel
Exhibit No. 23	Statutory warranty deed no. E1786421
Exhibit No. 24	Photo locator map

SLS:gao  
E02G0116 RPT